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DEPARTMENT OF STATE  
ASSISTANT SECRETARY

10/11/58  
11/9 November 29, 1958

TO: Mr. Marshall  
FROM: Mr. Kohler *pk*  
SUBJECT: Possible statement on agency formula.

Jack Raymond and I have discussed at length the possibility of a statement which would have the effect of disposing of or putting aside the interpretations and speculations surrounding the Secretary's remarks at his press conference on November 27 to the effect that we "might" deal with some GDR personnel as agents of the Soviet Union". The more we discussed it and the more we tried to find a formula, the more it seemed to us that any statement which could be used at this juncture would probably result in further misinterpretations and probably worsen the situation on the principle of "qui s'exouse, s'accuse". As of the moment the contingency instructions have not been changed and the Soviet Union has not in fact renounced its responsibilities. The USSR has only threatened to do so after a period of grace. If in fact the USSR renounced its obligations then the agency theory would be invalid. On the other hand, our basic legal position is that the USSR cannot unilaterally divest itself of these obligations. Consequently we are there pinioned. Moreover a review of the press indicates that the flurry is dying down somewhat and our estimate of the current prospect is that it will probably continue to do so. Mayor Willie Brandt said to Hickenlooper yesterday, somewhat wryly, that "it is perhaps fortunate that the recent Russian note has thrust speculation concerning the Secretary's remarks into the background." Moscow reports that the Soviet press yesterday referred to the press conference "with main attention to statement of Allied readiness for contacts with GDR officials. Treatment implies that the statement is based on common position worked out among Western Powers." Here lies another possible danger. If a statement were made implying that we would not deal with GDR officials at this stage, we might simply provoke Moscow into making a test. Everything considered Jack Raymond and I concluded that the furthestest we could go would be to make public the clarifying line contained

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in the attached telegram to Bonn (1115 November 26). Even this, however, would risk reviving a controversial subject which shows indications of petering out anyway.

As to Selwyn Lloyd's problem Jack Raymond believes that the line he proposes to take is all right (London's 2931 November 28). We are getting off a short telegram to London saying so and saying we assume that Lloyd has full text of Secretary's news conference and of clarifying statement in the attached telegram (again 1115 to London.)

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